

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

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THIS DOCUMENT RELATES TO:  
State of California, *ex rel.* Ven-A-Care v.  
Abbott Laboratories, *et al.*  
CASE #: 1:03-cv-11226-PBS

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) MDL No. 1456  
) Master File No. 01-12257-PBS  
)  
) (Original Central District of California  
) No. 03-CV-2238)  
)  
) Judge Patti B. Saris  
)  
) NOTICE OF MOTION FOR LEAVE TO  
) FILE "STATE OF CALIFORNIA'S  
) ELECTION TO DECLINE AS TO  
CERTAIN DEFENDANTS AND  
ALLEGATIONS" UNDER SEAL

TO THE COURT AND TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Please take notice that on September 9, 2005, the State of California filed the following documents: "Motion for Leave to File 'State of California's Election to Decline as to Certain Defendants and Allegations' Under Seal"; and "[Proposed] Order Granting Motion For Leave to File 'State of California's Election to Decline as to Certain Defendants and Allegations' Under Seal".

In conjunction with such motion, the State of California will be submitting to the Clerk of the District Court of Massachusetts, under seal, the "State of California's Election to Decline as to Certain Defendants and Allegations", for the Court's consideration pending a decision by the

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Court in response to the State of California's motion. Such submission is expected to occur on or about September 12, 2005.

BILL LOCKYER  
Attorney General of the State of California

Dated: September 9, 2005

/s/ Brian V. Frankel  
BRIAN V. FRANKEL  
Supervising Deputy Attorney General  
Bureau of Medi-Cal Fraud & Elder Abuse  
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**CERTIFICATE OF SERVICE**

I, BRIAN V. FRANKEL, hereby certify that on September 9, 2005, I caused a true and correct copy of the foregoing, **NOTICE OF MOTION FOR LEAVE TO FILE “STATE OF CALIFORNIA’S ELECTION TO DECLINE AS TO CERTAIN DEFENDANTS AND ALLEGATIONS” UNDER SEAL**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to Verilaw Technologies for posting and notification to all parties.

Dated: September 9, 2005

/s/ Brian V. Frankel  
BRIAN V. FRANKEL  
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